

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 CAPITOL MALL, 17TH FLOOR
SACRAMENTO, CALIFORNIA 95814

FILE NO. RH 04 03 7941
MAY 22, 2006

FINAL STATEMENT OF REASONS

**REGARDING ADOPTION OF PROPOSED REGULATIONS
PRESCRIBING THE METHOD OF FILING NOTICE OF APPOINTMENT OF AGENTS AND
NOTICE OF TERMINATION OF APPOINTMENT OF AGENTS**

INTRODUCTION

Pursuant to the authority granted under the provisions of California Government Code (CGC) section 11346.1(b) and California Insurance Code (CIC) section 1707, California Insurance Commissioner John Garamendi ("Commissioner") has adopted Title 10, California Code of Regulations (CCR), Chapter 5, Subchapter 1, Article 12, sections 2194.41, 2194.42 and 2194.43 regarding the prescribed method of filing notice of appointment of agents and notice of termination of appointment of agents.

STATEMENT OF SPECIFIC PURPOSE

CIC section 1707 establishes the requirement that a notice of appointment of agents or notice of termination of appointment of agents shall be filed on forms prescribed by the Commissioner, within 10 days of appointment or termination, except as otherwise provided in section 1704.5.

However, neither the statute nor existing regulations prescribe the *method* of filing of said notices of appointment of agents and notices of termination of appointment of agents.

Proposed Title 10, CCR sections 2194.41, 2194.42 and 2194.43 provide, in relevant part, as follows:

Within six months of the effective date of these regulations, all insurance companies, unless excepted by Section 2194.43, are required to submit appointments and terminations in an electronic form for the following license lines: Fire & Casualty, Life Agent, Travel Agent, Disability Only, Part Time Fraternal, Motor Club, Personal Lines, and Home Protections. Additional lines of authority may be added to this section as technological advancement will allow. Any paper appointments or

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terminations received after the six month grace period will be considered null and void.

Methods of electronic submission into the department's Insurance Producer Licensing Database include, but are not limited to, the use of the following approved entities:

(a) The National Insurance Producer Registry (NIPR) and its authorized business partners. NIPR is a subsidiary of the National Association of Insurance Commissioners (NAIC) and offers organizations the option of programming their own portal into NIPR or the option of using the portals provided by its authorized business partners. NIPR Authorized business partners may also be added or removed as new business partner agreements are made.

(b) Any additional vendors authorized by the California Department of Insurance to provide similar electronic submission services will be identified on the Department's official web site (www.insurance.ca.gov) as they become available. These regulations do not endorse any particular vendor.

(c) The California Department of Insurance also reserves the right to develop its own direct method of electronic submission of appointment and termination of company appointments.

Currently, the majority of insurance companies can, and do file notices of appointment of agents and notices of termination of appointment of agents electronically. However a small percentage of companies continue to file paper notices of appointment of agents and notices of termination of appointment of agents.

The specific purpose of this regulation is to require *all* insurance companies to file electronically. Requiring electronic filing of notices will promote efficiency and economy in the Department's processing of notices of appointment of agents and notices of termination of appointment of agents.

Electronic submissions will enhance the Department's ability to process these notices quickly and efficiently and will save operating costs by eliminating the excessive handling that paper notices require. Furthermore, electronic filing of

notices of appointment of agents and notices of termination of appointment of agents will allow for faster and more accurate processing of these notices compared to the time required to process paper filings.

SUMMARY OF AND RESPONSES TO PUBLIC COMMENTS

SUMMARY OF COMMENT OF WESTERN INSURANCE AGENTS ASSOCIATION (WIAA)

WIAA commented that proposed section 2194.43(a) was without authority with respect to the requirement that

If a producer is “terminated for cause” by an insurer, the insurer shall submit in writing an “Action Notice of Termination of Company Appointment” (Form 447-54T) along with an explanation of the “for cause termination” within 30 days of such termination with applicable fees included.

WIAA commented that the “current Form 447-54T [(Rev. 12/2003)] requires the insurer to sign a statement if the termination is due to the belief that the agent may have violated the Insurance Code. It does not require information pertaining to at fault terminations.”

RESPONSE TO COMMENT OF WIAA

Proposed section 2194.43(a) as initially proposed, has been deleted from the regulation.

SUMMARY OF COMMENT OF AMERICAN AGENTS ALLIANCE (AAA)

AAA commented that “there is no statutory authority which requires insurers to explain their reasons for termination of an agent.”

AAA also objected to the use of the term “producer” in section 2194.43(a) on the ground that the “term ‘producer’ is inconsistent in that the proposed regulation referred to ‘agents’”. AAA asserted that a “producer” is a term which is unidentified in the Insurance Code, but is commonly understood in the insurance industry to include both agents and brokers, however brokers are not required to be appointed or terminated.

RESPONSE TO COMMENT OF AAA

Proposed section 2194.43(a), as initially proposed, has been deleted from the regulation

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SUMMARY OF COMMENT OF INSURANCE BROKERS AND AGENTS OF THE WEST (IBAW)
IBAW also commented initially that proposed section 2194.43(a) was
“unsupported by the underlying statutory authorities cited by CDI”.

RESPONSE TO COMMENT OF IBAW

Proposed section 2194.43(a), as initially proposed, has been deleted from the
regulation.

SUMMARY OF COMMENT OF FARMERS INSURANCE GROUP (FARMERS)

Farmers commented that the proposed regulation “would make[] an
unnecessary change to the termination processing work flow for all carriers that
process electronic transactions via Web services....” Farmers commented further
that the “Department should consider permitting carriers to process the
electronic termination of producers, regardless of reason, but require the carrier
to follow up, in writing, with the explanation of the ‘for cause’ termination.”

RESPONSE TO COMMENT OF FARMERS

Farmers did not object to the requirement of an explanation in the case of a “for
cause” termination; *per se* but instead focused on the technical aspects of
providing a written explanation in the context of the existing methods used for
processing electronic notices. The deletion of proposed section 2194.43(a), as
initially proposed, meets Farmers’ concern regarding the termination processing
workflow.

SUMMARY OF COMMENT OF INSURANCE BROKERS AND AGENTS OF THE WEST (IBAW)
IN RESPONSE TO NOTICE OF CHANGED TEXT AND CHANGED TEXT OF THE REGULATION
IBAW commented in response to the changed text of the regulation deleting
section 2194.43(a), that “[w]e strongly support the deletion....”

The Commissioner received no additional comments in response to the Notice of
Availability of Changed Text, dated October 5, 2005.

IDENTIFICATION OF STUDIES AND REPORTS

The Commissioner did not rely upon any technical, theoretical and/or empirical
study, report or similar document in proposing this regulation.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed regulation would mandate the use of a specific
technologies, i.e., electronic transactions via a web-based service as apposed to
paper filings. As stated throughout, the majority of insurance companies are
currently filing notices of appointment and termination of agents electronically,

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via existing web-based services commonly available to the insurance industry, therefore, the Commissioner's requirement that all carriers use the same technology is reasonable.

CONSIDERATION OF ALTERNATIVES

The Commissioner has determined that no reasonable alternative exists to carry out the purpose of these regulations and none were proposed. The Commissioner has determined that no alternative to the proposed regulation would be as effective and less burdensome to affected persons.

MANDATES

The regulations do not impose a mandate on local agencies or school districts.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has determined that the adopted regulation does not have a significant adverse impact on business because the regulation merely clarifies and standardizes existing statutory requirements. Furthermore, the regulation does not affect small businesses.

FORM 399

The Commissioner has determined that the proposed regulations make only technical, non-substantive and clarifying changes to existing law and therefore, do not have a fiscal impact to state agencies, local agencies or school districts or federal funding.

Date: _____, 2006

JOHN GARAMENDI
Insurance Commissioner

By: _____/s/_____
Natasha R. Ray, Senior Staff Counsel